

## **N.J.S.A. 34:9A-1 et seq. MIGRANT LABOR; SEASONAL FARM LABOR ACT**

### **34:9A-1. Short title**

This act shall be known as the Seasonal Farm Labor Act.

### **34:9A-2. Definitions**

As used in this act, unless the context clearly requires a different meaning:

- (a) "Farm labor camp," or "Migrant labor camp" shall mean one or more tents, vehicles, buildings or structures, together with the tract of land appertaining thereto, used as living quarters by seasonal, temporary or migrant workers directly or indirectly in connection with any work or place where work is being performed, whether or not rent is paid or reserved in connection with the use or occupancy of such premises.
- (b) "Commissioner" shall mean the Commissioner of Labor and Industry or any of his authorized deputies, representatives, agents or employees.
- (c) "Department" shall mean the Department of Labor and Industry.
- (d) "Bureau" shall mean the bureau of migrant labor established by this act.
- (e) The terms "seasonal worker," "temporary worker" and "migrant worker" may be used interchangeably and shall include any person who is engaged in any seasonal or temporary work.
- (f) All other words and phrases shall be defined and construed as provided by chapter 1 of Title 1 of the Revised Statutes.

### **34:9A-3. Bureau of migrant labor; establishment**

There is hereby established in the Department of Labor and Industry<sup>1</sup> bureau of migrant labor.

<sup>1</sup>Change of name of department of labor and industry to department of labor, see § 34:1A-1.1.

### **34:9A-4. Repealed by L.1967, c. 91, § 13**

#### **34:9A-4.1. Migrant labor board; abolition; transfer of functions, powers and duties**

The migrant labor board is hereby abolished and all of its functions, powers and duties are vested in the Commissioner of Labor and Industry.<sup>1</sup> Any rules or regulations previously approved by the migrant labor board shall remain in full force and effect unless or until modified by the commissioner.

<sup>1</sup> Change of name of department of labor and industry to department of labor, see § 34:1A-1.1.

### **34:9A-5, 34:9A-6. Repealed by L.1967, c. 91, § 13**

#### **34:9A-7. Deputy commissioner of labor; appointment**

The Commissioner of Labor and Industry<sup>1</sup> shall have the duties and exercise the powers of the bureau through such deputy commissioner of labor as he may designate.

<sup>1</sup> Change of name of department of labor and industry to department of labor, see §34:1A-1.1.

#### **34:9A-7.1. Seasonal worker defined**

As used in this act "seasonal worker" shall mean any person who is engaged in any seasonal or temporary work.

#### **34:9A-7.2. Certified Spanish language interpreters; permanent and temporary staff**

The Commissioner of the Department of Labor and Industry shall provide for and establish in the Bureau of Migrant Labor a permanent staff of certified Spanish language interpreters and other personnel as necessary to aid and assist seasonal

workers in interpreting language in connection with matters involving any Federal, State, county or local governmental agency.

In addition to said permanent staff, the commissioner shall maintain a roster of certified Spanish language interpreters to be available at such times and places on a temporary basis as the commissioner determines.

### **34:9A-7.3. Permanent staff employment under civil service; employment and compensation of temporary staff**

Interpreters and other employees for the permanent staff shall be appointed and employed by the commissioner subject to the provisions of Title 11 of the Revised Statutes. Temporary interpreters shall not be appointed pursuant to Title 11 of the Revised Statutes and they shall receive payment for their services on a per diem or such other basis as the commissioner determines to be appropriate.

### **34:9A-7.4. Rules and regulations**

The commissioner is authorized to adopt, promulgate and enforce such rules and regulations pertaining to the qualification and certification of interpreters and their duties and such other matters as he determines necessary to implement this act.

### **34:9A-8. Repealed by L.1967, c. 91, § 13**

### **34:9A-9. Duties and powers of bureau**

The bureau shall:

- (a) Enforce the provisions of article 2 of this act<sup>1</sup> either directly or through interdepartmental agreements;
- (b) Enforce all other applicable labor laws, including, but not limited to, those relating to private employment agencies, child labor, wage payments and wage claims, with respect to migrant labor camps;
- (c) Provide inspectional services to encourage minimum standards of housing and sanitation in migrant labor camps;
- (d) Advise and consult with employers of migrant labor as to the ways and means of improving living conditions of migrant workers;
- (e) In co-operation with the Department of Health, prescribe minimum standards of sanitation, and preventive and curative health services, not inconsistent with this act, for migrant workers;
- (f) In co-operation with the Department of Education, provide, so far as possible, educational facilities for the children of migrant workers;
- (g) In co-operation with the Department of State Police, provide for a minimum standard of protection for migrant workers;
- (h) In co-operation with the Department of Community Affairs, plan, locate and construct (as soon as conditions permit) experimental State camps for migrant workers; provided, however, that no such camp shall be located or constructed in any municipality where there is not located an industry or farm employing migrant labor without the consent of the governing body of said municipality;
- (i) In co-operation with the Department of Agriculture, conduct an educational program for employers of migrant labor pertaining to the standards, methods and objectives of the division of migrant labor;
- (j) In co-operation with the Department of Institutions and Agencies, help devise ways and means for resolving the welfare problems that require attention.

<sup>1</sup> N.J.S.A. §§ 34:9A-19 to 34:9A-34.

### **34:9A-10. Inspectional services**

Each camp shall from time to time be inspected by the bureau. Inspectors shall be trained and authorized to consult with and assist camp owners and operators with respect to the requirements of this act. Inspectors shall also ascertain and report to the commissioner all violations of this act, and perform such other duties as the commissioner shall direct.

### **34:9A-11. Preventive and curative public health services**

The bureau through the Department of Health<sup>1</sup> shall make surveys to determine the adequacy of preventive and curative health services available to occupants of migrant labor camps, and where such services are found inadequate, to determine desirable ways and means to make them available. The commissioner shall arrange, to the extent of the available appropriations, through the Department of Health for the provision of such supplementary services. Said services may be provided through the use of one or more traveling dispensaries, by a contract with physicians, dentists, hospitals or clinics, or in such other manner as may be recommended by the Department of Health.

<sup>1</sup> State department of health, see § 26:1A-2.

### **34:9A-12. Communicable diseases**

For the purpose of this act the commissioner may through the State Director of Health exercise the powers of a local board or health officer with respect to communicable diseases defined by chapter four of Title 26 of the Revised Statutes. The commissioner shall make such arrangements and agreements with the Department of Health and other interested departments and agencies as will facilitate the processing of notices of cases of communicable diseases in migrant labor camps and expedite the treatment of such cases.

### **34:9A-13. Notice of communicable diseases; quarantine; food poisoning**

It shall be the duty of the person in charge of a camp to report immediately to the local health authority the name and address of any individual in the camp known to have or suspected of having a communicable disease. Until official action in such case has been taken, strict isolation shall be maintained.

The person in charge of a migrant camp shall co-operate and assist in the enforcement of any quarantine or isolation measures imposed by any public authority having jurisdiction.

Whenever there shall occur in any camp an outbreak of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the person in charge of the camp to report immediately the existence of such an outbreak or disease prevalence to the State Director of Health, district or local health officer verbally, or by telegram or telephone; such officer shall forthwith investigate the outbreak and shall report by telegram or telephone immediately the existence of such an outbreak to the commissioner or deputy commissioner in charge of the division. Local health officers shall exercise due diligence in ascertaining the existence of such outbreaks or the unusual prevalence of disease in camps.

### **34:9A-14. Construction and operation of camps; field surveys and censuses**

The bureau in co-operation with the Department of Community Affairs, shall make field surveys and censuses adequate to determine the number, location and character of migrant agricultural workers, the needs of their employers, and the most desirable locations for public migrant labor camps. The commissioner may, as soon as a survey and census is completed and he finds a project to be feasible, contract with the public housing and development authority in the Department of Community Affairs for the acquisition or construction of one or more camps. The bureau may operate such public camps or it may contract for their operation by such authority or by one or more municipalities.

### **34:9A-15. Personnel; appointments**

The commissioner may appoint such professional, technical and clerical assistants and employees as may be necessary for the performance of his functions under this act.

### **34:9A-16. Rules and regulations**

The commissioner may make, modify and repeal rules and regulations for the interpretation and application of the provisions of this act, and, in his discretion he may temporarily suspend the operation of one or more sections of this act whenever he finds that material priorities or manpower shortages make it impracticable to comply therewith.

### **34:9A-17. Civil penalties**

In addition to any other sanctions herein or otherwise provided by law, the commissioner, upon notice and hearing, may impose a penalty not exceeding \$500.00 for any violation of this act or of any rule or regulation duly issued hereunder. Such penalty shall be used for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under the Penalty Enforcement Law (N.J.S. 2A:58-1). Where any violation of this act or of any rule or

regulation duly issued hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the commissioner in any order or notice for the correction or termination of such violation, shall constitute an additional separate and distinct offense, except during the time an appeal from said order or notice may be taken or is pending. It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

#### **34:9A-18. Entry and inspection**

The commissioner, his authorized officers and agents may, for the purpose of this act:

- (a) Enter public or private property to determine whether there exists any camp to which this article applies;
- (b) Enter and inspect all camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith;
- (c) Enter and inspect the land adjacent to the camp to determine whether the sanitary and other requirements of this act have been or are being complied with.

#### **34:9A-19. Prohibition of violations**

No person, or any agent or officer thereof, shall construct, establish, maintain, operate, or occupy, or permit the construction, establishment, maintenance, operation, occupancy or use of any camp which does not fully comply with any of the requirements of this act.

#### **34:9A-20. Certified labor camps; application; inspections; erection, construction or alteration**

Each person employing any person to work in or at camps to which this article applies shall apply, not later than 60 days prior to the opening of any such camp in any calendar year to the bureau for a certificate of compliance of such camp with the requirements of this act. Such application shall be made on such forms and contain such information, drawings or photographs as the commissioner may deem necessary to enable him to determine the fact of compliance. A separate application shall be made and a separate certificate issued for each camp. The commissioner shall cause each camp to be inspected within 45 days of receipt of an application for a certificate of compliance. If the commissioner finds from the application and inspection that a camp fully complies with the requirements of this act, he shall issue a certificate to that effect. No camp shall be maintained, operated, used or occupied until the commissioner shall have issued therefor a certificate as required by this section; provided, that if no inspection of a camp has been made within 45 days of the receipt of an application for a certificate of compliance, such camp may open but shall be closed by the commissioner if subsequent inspection discloses the fact that such camp does not substantially comply with the requirements of this act.

No camp shall be erected, constructed or substantially altered subsequent to the effective date of this act until the plans and specifications for such erection, construction or alteration have been submitted to, and approved by, the commissioner. The commissioner shall approve any plans and specifications submitted to him pursuant to this section if he finds that such plans and specifications fully comply with the requirements of this act and any rule or regulation duly issued hereunder.

#### **34:9A-21. Use of certificate; revocation**

No person shall display any certificate issued under this article in or about any premises other than the camp for which the certificate was issued; nor shall any person advertise, represent or describe any camp for which such a certificate has not been issued, or for which a certificate has been issued and subsequently revoked, as a certified labor camp. Whenever the commissioner finds that a camp for which a certificate has been issued no longer complies with the requirements of this act he shall revoke the certificate upon reasonable notice to the holder thereof.

#### **34:9A-22. Shelter; sleeping places, requirements**

Every camp shall provide sleeping places in reasonably good structural condition, including adequate provision against fire hazards, so as to shelter the occupants against the elements and to exclude ground dampness. Sleeping places shall be kept clean and free from vermin and matter of an infectious or contagious nature. The grounds around sleeping places shall be properly drained and shall be kept clean and free from accumulations of dirt, filth, garbage, and deleterious matter.

#### **34:9A-23. Beds or bunks**

Each sleeping place shall be equipped with beds or bunks made of steel, canvas, or other sanitary material, so constructed as to afford reasonable comfort to the user, and so arranged as to allow a clear space of at least twenty inches, extending from the floor to the ceiling or roof, between each bed or bunk or tier thereof.

#### **34:9A-24. Air and privacy**

Every sleeping place erected or constructed subsequent to the effective date of this act shall contain sufficient air space and partitions to insure an adequate supply of fresh air, and reasonable privacy for each occupant; provided, that each such sleeping place shall conform to the standards prescribed by the Secretary of Labor of the United States pursuant to 48 United States Statutes at Large 117, section 12, approved June 6, 1933 (29 U.S.C. 49k), as amended and supplemented.<sup>1</sup>

Every sleeping place which, on the effective date of this act, is maintained, operated, occupied or used by persons working in or at camps to which this article applies, shall be made to conform, no later than January 1, 1970, to the standards prescribed by the Secretary of Labor of the United States pursuant to 48 United States Statutes at Large 117, section 12, approved June 6, 1933 (29 U.S.C. 49k), as amended and supplemented; provided, that the commissioner, upon proper application therefor, may grant exceptions from the literal requirements of this section and any rule or regulation duly issued hereunder, if he finds that strict compliance would cause undue hardship and that the exception, if granted, will not unreasonably jeopardize the health or safety of the intended occupants.

<sup>1</sup> 29 USCA §49K.

#### **34:9A-25. Food preparation**

Every camp shall be provided with adequate stoves or similar cooking facilities. Every tent, or structure where food is cooked, prepared or served in a camp shall be kept in a clean and sanitary condition and the openings thereof shall be screened. All utensils, in which food is prepared or kept, or from which food is to be eaten, and all implements used in the eating of food shall be kept in a clean, unbroken, and sanitary condition.

#### **34:9A-26. Water**

(a) The occupants of each camp shall be provided a potable water supply in accordance with the following requirements:

1. Each camp shall be provided with an adequate supply of potable water which is of safe sanitary quality.
2. Wells or springs used as sources of water supply shall have tight covers and be so constructed and located as to preclude their pollution by seepage from cesspools, privies, sewers, sewage treatment works, stables or manure piles, or pollution from surface drainage. The water from such sources shall be obtained by free gravity flow or by a metal pump with watertight connection to a concrete slab covering such well or spring. If the pump is situated adjacent to the well or spring, it shall be so located and connected as to prevent pollution of the water.
3. Basins, pressure tanks or reservoirs used for the storage of drinking water subsequently distributed without treatment shall be so lined, curbed, covered, or otherwise protected as may be necessary to prevent pollution of the supply by surface water, and to preclude pollution of an accidental, incidental or willful nature. Water therefrom shall be delivered to the camp fixtures, if such fixtures are provided, by means of a watertight discharge pipe by gravity or by pumping.
4. No common drinking cup shall be used. If drinking fountains are provided they shall be of sanitary design and construction.

(b) The occupants of each camp erected or constructed subsequent to the effective date of this act shall be provided a potable water supply system in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199<sup>1</sup> and any standards or regulations duly issued pursuant thereto by the Commissioner of Health; provided, that the commissioner, for good cause shown, and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies.

(c) The occupants of each camp which, on the effective date of this act, is maintained, occupied or used by persons working in or at camps to which the article applies, shall be provided, no later than January 1, 1970, with a potable water supply system in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199, and any standards or regulations duly issued pursuant thereto by the Commissioner

of Health; provided, that the commissioner, for good cause shown and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies.

- (d) The commissioner, upon proper application therefor, may grant exceptions from the literal requirements of this section and any rule or regulation duly issued hereunder, if he finds that strict compliance would cause undue hardship and that the exception, if granted, will not unreasonably jeopardize the health or safety of the intended occupants.

<sup>1</sup> N.J.S.A. § 58:11-23 et seq.

#### **34:9A-27. Bathing facilities**

- (a) Convenient and suitable bathing facilities of a reasonable nature to suit conditions, kept clean and sanitary, shall be provided for every camp.
- (b) The occupants of each camp erected or constructed subsequent to the effective date of this act shall be provided convenient and suitable bathing facilities of a reasonable nature to suit conditions which shall be kept clean and sanitary, shall be constructed in accordance with regulations promulgated by the commissioner, and whose effluent shall be discharged into and treated by sewerage facilities constructed in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199<sup>1</sup>, and any standards and regulations duly issued pursuant thereto by the Commissioner of Health; provided, that the commissioner for good cause shown and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies.
- (c) The occupants of each camp which, on the effective date of this act, is maintained, occupied or used by persons working in or at camps to which this article applies, shall be provided, no later than January 1, 1970, convenient and suitable bathing facilities of a reasonable nature to suit conditions which shall be kept clean and sanitary, shall be constructed in accordance with regulations promulgated by the commissioner, and whose effluent shall be discharged into and treated by sewerage facilities constructed in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199, and any standards or regulations duly issued pursuant thereto by the Commissioner of Health; provided, that the commissioner, for good cause shown and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies.
- (d) The commissioner, upon proper application therefor, may grant exceptions from the literal requirements of this section and any rule or regulation duly issued hereunder, if he finds that strict compliance would cause undue hardship and that the exception, if granted, will not unreasonably jeopardize the health or safety of the intended occupants.

<sup>1</sup> N.J.S.A. § 58:11-23 et seq.

#### **34:9A-28. Toilets and privies**

- (a) Each camp to which this article applies shall provide privy or other toilet facilities and a sewage disposal system in accordance with the following requirements:
  - 1. An adequate number of convenient and suitable privy or other toilet facilities, kept clean and sanitary shall be provided for every camp. A privy other than a water-closet shall consist of a pit at least 2 feet deep with a suitable shelter. The openings of the shelter and pit shall be enclosed by screening or other suitable fly netting. No privy pit shall be filled with excreta to nearer than 1 foot from the surface of the ground and the excreta in the pit shall be covered with earth, ashes, lime or other similar substance.
  - 2. Privies shall be so located, constructed and maintained that they shall not be offensive to the users, nor permit access of flies to the privy vaults nor by leakage or seepage offer a possible pollution of any water supply, adjacent surface waters or ground surfaces.
  - 3. Sewage disposal systems shall not allow exposure of sewage or sewage effluent on the surface of the ground. All drainage from the kitchen sink shall be carried through a covered drain to a covered cesspool or septic tank or otherwise disposed of in such a way as not to become offensive or unsanitary.
- (b) Each camp erected or constructed subsequent to the effective date of this act shall provide a water-carried sewerage disposal system in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199<sup>1</sup>, any standards or regulations duly issued pursuant thereto by the Commissioner of Health;

provided, that the commissioner, for good cause shown and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies; and provided further, that the commissioner, for good cause shown and upon consultation with the Commissioner of Health, may approve a nonwater carried sewerage disposal system for use at a camp if, but only if, he finds that, by reason of location, topography, soil permeability or ground water elevation, a nonwater carried sewerage disposal system offers protection to the health and welfare of the occupants of a camp superior to that offered by a water-carried sewerage disposal system.

- (c) Each camp which, on the effective date of this act, is maintained, occupied or used by persons working in or at camps to which this article applies, shall provide, no later than January 1, 1970, a water-carried sewerage disposal system in accordance with the provisions of "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, chapter 199, and any standards or regulations duly issued pursuant thereto by the Commissioner of Health; provided, that the commissioner, for good cause shown and upon consultation with the Commissioner of Health, is authorized to amend or revise any such standard or regulation for application to the camps to which this article applies; and provided further, that the commissioner for good cause shown and upon consultation with the Commissioner of Health, may approve a nonwater carried sewerage disposal system for use at a camp if, but only if, he finds that, by reason of location, topography, soil permeability or ground water elevation, a nonwater carried sewerage disposal system offers protection to the health and welfare of the occupants of a camp superior to that offered by a water-carried sewerage disposal system.
- (d) The commissioner, upon proper application therefor, may grant exceptions from the literal requirements of this section and any rule or regulation duly issued hereunder, if he finds that strict compliance would cause undue hardship and that the exception, if granted, will not unreasonably jeopardize the health or safety of the intended occupants.

<sup>1</sup> N.J.S.A. § 58:11-23 et seq.

#### **34:9A-29. Garbage and wastes**

All garbage, kitchen wastes, and rubbish in camps shall be deposited in suitable covered receptacles which shall be emptied daily and the contents buried or otherwise disposed of in accordance with regulations duly issued by the commissioner.

#### **34:9A-30. Milk, food and meals; sales by concessionaires**

Wherever milk, food or meals are prepared, served, furnished or offered for sale in a camp by the owner, operator or concessionaire,

- (a) The kitchen and dining rooms shall be separated from sleeping quarters and toilets.
- (b) The doors and windows of kitchens, dining rooms and mess halls shall be adequately screened against insects.
- (c) The kitchen and dining rooms shall be adequately equipped for the preparation and serving of food.
- (d) Walls, floors and ceilings of kitchen and dining rooms shall be so constructed as to permit them to be readily cleaned and they shall be kept clean and in good repair.
- (e) Adequate provisions shall be made for sanitary storage, handling, and protection of food and milk supplies until served or used.
- (f) Adequate facilities, including a plentiful supply of hot water for washing of dishes and utensils, shall be provided; dishes and utensils shall be washed, cleansed and effectively disinfected promptly after each use.

#### **34:9A-31. Responsibility**

Every person, or the agent or officer thereof, employing persons to work in or at camps to which this article applies and the superintendent or overseer in charge of the work in or at such camps shall carry out the provisions of this article. Said person, or the agent or officer thereof, and said superintendent or overseer, shall maintain a record of the names of the persons who work in or at said camp, and shall produce such record upon the request of the commissioner. At every camp a responsible person shall be appointed to assist in keeping the camp clean.

#### **34:9A-32. Public nuisance**

Any camp which does not conform to this article shall be deemed a public nuisance and if not made to conform within five days or within such longer period of time as may be allowed by the commissioner by written notice, shall be abated by proper suit brought by the Attorney-General upon request of the commissioner.

#### **34:9A-33. Peace officers**

For the purpose of securing the enforcement of this article the officers and agents of the commissioner shall have the authority of peace officers to make arrests, to serve any process or notice throughout the State, and may exercise such other authority of peace officers as may become necessary in securing the enforcement of this article.

#### **34:9A-34. Penalties**

Any person, or the agent or officer thereof, who violates any provision of this article or of any rule or regulation duly issued under this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both. It shall be a complete defense to any criminal proceeding pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp.

#### **34:9A-35. Appropriations**

There is hereby appropriated to the division for the remainder of the current fiscal year ending June thirtieth, one thousand nine hundred and forty-five, for the purposes of this act, the sum of one hundred thousand dollars (\$100,000.00), of which twenty-five thousand dollars (\$25,000.00) or so much thereof as may be necessary shall be for the planning and construction of public migrant labor camps, and seventy-five thousand dollars (\$75,000.00) or so much thereof as may be necessary shall be for personal and contractual services, equipment and expenses; and any unexpended balances thereof are hereby appropriated, respectively, for the fiscal year ending June thirtieth, one thousand nine hundred and forty-six.

#### **34:9A-36. Effective dates**

Sections one to seventeen, inclusive, and sections twenty, twenty-one, thirty-three and thirty-five of this act shall take effect immediately. The remaining sections of this act shall take effect September fifteenth, one thousand nine hundred and forty-five.

## **New Jersey State Crew Leader Registration Act**

### **CHAPTER 8A - SUPPLIERS OF LABOR**

#### **34:8A-7. Definitions**

As used in this act:

- a. "Crew leader" means any person who transports, recruits, supplies or hires farm or food processing laborers and who, for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly by any farm operator or laborer, directs all or any part of the work of such workers, or any person who recruits, supplies, or hires farm or food processing laborers for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly by any farm operator or laborer, but shall not include any owner or lessee of a farm or food processing plant who recruits or hires laborers for work on his farm or in his plant.
- b. "Commissioner" means the Commissioner of the Department of Labor and Industry<sup>1</sup> or his authorized representative.
- c. "Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker."

<sup>1</sup> Change of name of department of labor and industry to department of labor, see § 34:1A-1.1.

#### **34:8A-8. Crew leader; certificate of registration; necessity; duration; nontransferability; display; agents; responsibility of registrant**

No person shall act as a crew leader, nor shall any person employ a crew leader unless he possesses a current and valid certificate of registration issued by the Department of Labor and Industry<sup>1</sup>. The application and certificate of registration forms shall be prescribed by the commissioner.

A certificate of registration shall expire at midnight on December 31 of the year for which it is granted unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed each year upon the filing of an application of renewal on a form prescribed by the commissioner.

The certificate of registration, once issued, shall not be transferable, shall be kept by the registrant in his immediate personal possession and shall be displayed by the registrant upon request of the commissioner or any properly designated representatives of the commissioner or upon the request of the person by whom the crew leader is employed or upon the request of any seasonal farm worker or prospective seasonal farm worker.

Any person holding a valid certificate of registration pursuant to this act, or any regular employee of such a person, shall wear and display when engaging in activities as a crew leader such identification as the commissioner may require, showing such registration to be duly certified by the State and such regular employee to be the agent of such registrant.

Every such regular employee shall be subject to the provisions of this act and of any rules and regulations promulgated pursuant to this act to the same extent as if he were required to obtain a certificate of registration in his own name. For the purpose of this act, every registrant shall be responsible for the activities of every agent designated by him, and shall be subject to any penalties under this act, including the refusal, suspension or revocation of a certificate of registration, proceeding from any act of any agent designated by him, while such agent is engaged in activities as crew leader.

<sup>1</sup> Change of name of department of labor and industry to department of labor, see § 34:1A-1.1.

#### **34:8A-9. Requirements of applicants for certificate; rules and regulations; grounds for refusal to issue**

All applicants for a crew leader certificate of registration shall furnish evidence satisfactory to the commissioner of his good character, knowledge of and experience with the labor laws applicable to crew leaders and farmers and food processing laborers and any other evidence which the commissioner may establish by rule and regulation. In addition, any applicant transporting seasonal farm workers shall furnish proof satisfactory to the commissioner of compliance with the statutory and regulatory requirements of the New Jersey Division of Motor Vehicles. The commissioner may refuse to issue a certificate of registration to any applicant who does not meet the requirements of this section or any applicable rules or regulations issued hereunder.

The commissioner may, however, at his discretion and upon receipt of a signed application from a crew leader stating seasonal farm workers will not be transported by him issue a registration certificate on which the words "not authorized to transport" are conspicuously placed.

#### **34:8A-10. Duties of crew leader**

In addition to any other responsibilities imposed by law upon the crew leader, he shall:

- a. Keep records of place of work, gross payments, deductions, and names and addresses of all workers to whom payments are made, in those instances where a crew leader is party to the disbursement of any wages or other compensation due and payable to any seasonal farm worker for time, labor or employment. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece rate basis, the number of units of work performed, the number of units of time employed and the rate per unit shall be recorded on such records;
- b. Ascertain and disclose to each seasonal farm worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing and insurance to be provided him, (4) the wage rates to be paid him, and (5) the charges to be made by the crew leader for his services;
- c. File with the commissioner a correct change of address immediately upon each occasion such crew leader permanently changes his address;
- d. Display conspicuously at all times and offer a copy thereof to each seasonal farm worker or head of a seasonal farm worker household a bilingual (Spanish-English) handbill or similar notice stating the terms and conditions of employment in such form and in such manner as the commissioner may prescribe and which shall include the information required in subsection b. of this section, and in addition the name and address of the crew leader, the name and address of the employer upon whose premises the work is to be performed, and the date or period for which such employment is offered. Every such handbill shall have printed thereon a schematic pay schedule, columnizing on the left under the heading "Hours Worked" the numbers 1 through 10 and to the right under the heading "Minimum Wage" the corresponding total minimum wages for each number of hours worked, and preceded by the words, "Even if you work by piece rate, you must receive no less than the following:"
- e. Designate an agent, in such a manner and on such forms as the commissioner may prescribe, which agent may be the commissioner but who in any case shall be available to accept service of summons in any action against such crew leader at any and all times during which such crew leader is absent from the jurisdiction of the State or otherwise unavailable to accept service.

In those instances where a crew leader is party to the disbursement of any wages or other compensation due and payable to any seasonal farm worker for time, labor or employment, he shall make, immediately upon termination of the period of employment for which the worker was employed, such payment or compensation to such seasonal farm worker on the same premises where said labor or employment was performed or provided.

#### **34:8A-10.1. Retaliatory action against worker for exercise of legal right; prohibition; presumption; liability**

It shall be unlawful for any crew leader to terminate, suspend, demote, transfer, or take adverse action against any past, present or prospective seasonal farm worker in retaliation for the exercise by such seasonal farm worker of any right secured under the laws and regulations of the State or Federal Government.

A rebuttable presumption that an action is retaliatory shall arise from any termination, suspension, demotion or taking of adverse action on the part of the crew leader which action occurs within a period of 60 days following any act by a seasonal farm worker to exercise any right secured under the provisions of this act or under the laws and regulations of the State or any agency or political subdivision thereof which establish the rights of persons engaged in farm labor or which establish duties of employers of persons engaged in farm labor.

Any person aggrieved hereunder may maintain a civil action against the crew leader. Any crew leader found to have violated this act shall be liable to such person aggrieved for full reinstatement and for back wages accumulated during the period of such unlawful retaliation and to exemplary damages in treble the amount of back wages found due, and for costs and attorney's fees.

#### **34:8A-11. Refusal to renew, revocation or suspension of certificate; hearing; notice; grounds**

The commissioner may refuse to renew and may revoke or suspend any certificate of registration after a hearing upon reasonable notice if the applicant:

- a. Fails to comply with the provisions of this act or any rules and regulations promulgated hereunder;
- b. Knowingly misrepresents to any seasonal farm worker facts relating to working conditions and hours or to the wages to be paid;
- c. Knowingly misrepresents any material fact in his application for a crew leader certificate of registration;
- d. Violates any State or Federal labor or criminal law; or
- e. Is not in fact the real party in interest in holding such certificate of registration and that the real party in interest in any such application or certificate of registration is a person, firm, partnership, association, or corporation which previously has applied for such certification and has been denied such certification, or which previously has been issued a certificate of registration which was subsequently revoked, suspended, or not renewed in this or any other state requiring the registration of crew leaders.

Such action by the commissioner shall be in addition to any other penalties provided by law.

#### **34:8A-11.1. Duties of commissioner**

The commissioner or his designated representative shall investigate and gather data with respect to matters which may aid in carrying out the provisions of this act. In any case in which a complaint has been filed with the commissioner regarding a violation of this act or with respect to which the commissioner has reasonable grounds to believe that a crew leader has violated any provisions of this act, the commissioner or his designated representative shall investigate and gather data respecting such case, and may, in connection therewith, issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigation. The commissioner or any agent designated by him for such purposes may administer oaths and affirmations, examine witnesses, and receive evidence.

In addition, the commissioner shall affirmatively monitor and investigate the activities and operations of crew leaders as described in this act without respect to specific complaints, at such frequency and in such a manner as is reasonably necessary to assure the enforcement of the provisions of this act by adopting and implementing a plan to include, as a minimum, (1) the interviewing each month, April through November, of a representative cross section of seasonal farm workers employed by virtue of the services of crew leaders registered with the State, and (2) the making of periodic inspections of records such as those required by subsection a. of section 4 (C. 34:8A-10) of the act hereby supplemented.

#### **34:8A-12. Violations; penalties**

Any person who violates any of the provisions of this act or of the rules and regulations promulgated hereunder shall be a disorderly person and upon conviction, for each violation, shall be punished by a fine of not less than \$100 and not more than \$1,000, or imprisonment for not more than 30 days, or both. Any sum collected as a fine pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

#### **34:8A-13. Violation of act; injunction; parties**

Upon a violation of any of the provisions of this act, any aggrieved seasonal farm worker, the commissioner or the Attorney General are specifically authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to restrain the violation and for such other further relief as the court shall deem proper. In such an action the court may proceed in a summary manner. Neither the institution of the action, nor any of the proceedings therein, shall relieve any party to such proceedings from the penalty prescribed for a violation of this act.

#### **34:8A-14. Additional penalty; imposition by commissioner; recovery by civil action**

In addition to any other sanctions herein or otherwise provided by law, the commissioner, upon notice and hearing, may impose a penalty not exceeding \$500.00 for any violation of this act or of any rule or regulation duly issued hereunder. Such penalty shall be used for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Where any violation of this act or of any rule or regulation duly issued hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the commissioner in any order or notice for the correction or termination of such violation, shall constitute an

additional separate and distinct offense, except during the time an appeal from said order or notice may be taken or is pending. It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner. Any sum collected as a penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

**34:8A-15. Commissioner of department of labor and industry; enforcement of act; promulgation of rules and regulations**

The Commissioner of the Department of Labor and Industry<sup>1</sup> is specifically authorized to enforce the provisions of this act and to promulgate all rules and regulations which, in his discretion, are necessary to carry out the provisions of this act.

<sup>1</sup> Change of name of department of labor and industry to department of labor, see § 34:1A-1.1.

**34:8A-16. Agreement by employee to waive or modify rights; invalidity**

Any agreement by an employee purporting to waive or to modify his rights hereunder, shall be void as contrary to public policy.

**34:8A-17. Severability**

If any provision of this act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

# **New Jersey State Drinking Water and Toilet Facilities Act**

## **CHAPTER 9A - MIGRANT LABOR**

### **34:9A-37. Definitions**

As used in this act:

- (a) "Farm operator" means any individual, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents thereof, in immediate possession of any farm as owner or lessee, and, as such, responsible for its management and condition.
- (b) "Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker."

### **34:9A-38. Furnishing drinking water and toilet facilities in fields**

At any farm where seasonal farm workers labor in a field that is an unreasonable distance from central facilities, the farm operator shall provide in the working area a sufficient supply of cool, potable water, and for each sex sufficient, suitable and separate privies or other toilet facilities which shall be properly screened, ventilated and kept clean and suitable facilities for the washing of hands.

### **34:9A-39. Commissioner of department of labor and industry; enforcement of act; promulgation of rules and regulations**

The Commissioner of the Department of Labor and Industry is authorized to enforce this act and to promulgate all reasonable rules and regulations which, in his discretion, are necessary to carry out the provisions of this act.

### **34:9A-40. Violations; penalties; collection; defenses**

Any farm operator who violates any of the provisions of this act or the rules and regulations promulgated hereunder shall be subject to a penalty of not less than \$50.00 nor more than \$500.00 to be collected in a civil action commenced by the commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) in the Superior Court or a municipal court, which shall have jurisdiction to enforce said penalty enforcement law in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

### **34:9A-41. Violations of act; injunction; parties**

Upon a violation of this act or of any rules and regulations promulgated hereunder, any aggrieved seasonal farm worker and the Commissioner of the Department of Labor and Industry shall be entitled to institute a civil action in a court of competent jurisdiction for injunctive relief to restrain such violation and for such other relief as the court shall deem proper, and the court may proceed in a summary manner in such action. Neither the institution of such action, nor any of the proceedings therein shall relieve any party to such proceedings from the penalty proscribed for a violation of this act.

## **N.J.A.C. CHAPTER 102 SEASONAL FARM WORKERS**

### **SUBCHAPTER 1. FIELD SANITATION**

#### **12:102-1.1 Purpose and scope**

- (a) The purpose of this subchapter is to provide reasonable standards for drinking, toilet and washing facilities for seasonal farm workers when working in a field.
- (b) This subchapter shall be applicable to all farms subject to N.J.S.A. 34:9A-37 et seq. when 10 or fewer seasonal farm workers are working in a field.
  - 1. If, at any time during a one-year period from the date of inspection, more than 10 seasonal farm workers have been employed, the Federal Occupational Safety and Health Act (OSHA) standards pursuant to 29 CFR 1928.110, shall be applicable.

#### **12:102-1.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Approved" means acceptable to the Commissioner. Any product certified, or classified, or labeled by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the Commissioner.

"Central facilities" means drinking, toilet and washing facilities housed at a central location which comply with Federal, State and local regulations and are at least equivalent in all respects to the facilities required by this subchapter.

"Commissioner" means the Commissioner of the Department of Labor and Workforce Development of the State of New Jersey or his or her designee.

"Cool" means water which is maintained at a temperature of not more than 60 degrees Fahrenheit.

"Farm operator" means any individual, family member, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents thereof, in immediate possession of any farm as owner or lessee, and, as such, responsible for its management and condition.

"Potable water" means water which has been tested and approved for compliance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.

"Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker".

"Unreasonable distance" means a travel distance from a working area in a field of more than 500 feet for drinking and washing facilities.

#### **12:102-1.3 Availability of water**

- (a) An adequate supply of fresh, cool, potable water shall be provided for workers in the working area, except when cool potable water facilities are available to the workers:
  - 1. At a central facility within 500 feet travel distance of the working area in the field; or
  - 2. At a location, separate from a central facility, within 500 feet travel distance of the working area in the field.
- (b) Upon request of the Commissioner, a farm operator shall provide evidence of the quality of drinking water provided from a non-public water supply system for compliance with (a) above.

#### **12:102-1.4 Water containers**

- (a) Portable containers used to dispense drinking water shall be capable of being tightly closed, and shall be equipped with a tap.

- (b) Water shall not be dipped from containers.
- (c) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and shall not be used for any other purpose.
- (d) The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.
- (e) Where single service cups are supplied, a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.
  - 1. Single service cups shall not be used more than once.

#### **12:102-1.5 Toilet facilities**

- (a) Toilet facilities shall be provided for workers in the working area, except when toilet facilities:
  - 1. Are available to the workers at a central facility within 500 feet travel distance or a five-minute walking time of the working area in the field;
  - 2. Are available to the workers at a location, separate from a central facility, within 500 feet travel distance or a five-minute walking time of the working area in the field; or
  - 3. Are accessible and immediately available to all the workers at all times within five minutes travel time by approved transportation provided by the farm operator.
- (b) Toilet facilities required in (a) above shall be separate for each sex and provided in accordance with Table 1.5(b) below:

TABLE 1.5(b)

1-20 males	1 seat
1-20 females	1 seat

- (c) Toilet facilities shall be a suitable type acceptable for the elimination of bodily wastes and may consist of the following types:
  - 1. Chemical toilets (fixed or portable);
  - 2. Combustion toilets;
  - 3. Composting toilets;
  - 4. Recirculating toilets; or
  - 5. Other generally accepted facilities.
- (d) Toilet facilities shall be equipped with an adequate supply of toilet paper.
- (e) Toilet facilities shall be maintained in a clean and sanitary condition, and in good working order.
- (f) Toilet facilities shall be so constructed and designed so as to afford reasonable privacy to the user. Where applicable, doors with inside locking capability shall be provided.

#### **12:102-1.6 Handwashing facilities**

- (a) Adequate handwashing facilities shall be provided for workers in the working area and in the vicinity of toilet facilities required by this subchapter, except when handwashing facilities:
  - 1. Are available to the workers at a central facility within 500 feet travel distance of the working area in the field and in the vicinity of toilet facilities required by this subchapter;

2. Are available to the workers at a location, separate from a central facility and in the vicinity of toilet facilities, within 500 feet travel distance or five minutes walking time of the working area in the field; or
3. In the vicinity of toilet facilities are accessible and immediately available to all the workers at all times within five minutes travel time by approved transportation provided by the farm operator.

(b) Washing facilities shall provide potable water, soap or other cleansing agent and individual towels.

(c) Waste water shall be disposed of in a sanitary and safe manner.

#### **12:102-1.7 Penalties**

Failure to comply with the provisions of this subchapter shall subject the farm operator to a fine pursuant to N.J.S.A. 34:9A-40.

#### **12:102-1.8 Exceptions**

- (a) The Commissioner may grant exceptions from this subchapter, provided that it shall be clearly evident that such exception will provide for conditions that are equal to or better than the literal requirements set forth in this subchapter.
- (b) Toilet facilities are not required where workers operate mobile equipment, as such workers can carry an adequate supply of potable water on the equipment and are able to travel to toilet and handwashing facilities in accordance with the timeframes set forth at N.J.A.C. 12:102-1.5 and 1.6.